

1 Nancy Sussman SBN108689
2 HAYWORTH AND SUSSMAN
3 1901 First Avenue, Suite 220
San Diego, CA 92101
Telephone: (619) 231-1215

4 Thor O. Emblem SBN 141880
5 Law Office of Thor Emblem
6 205 West Fifth Ave., Suite 105
Escondido, CA 92025
Telephone: (760)738-9301

7 || Attorneys for Plaintiff

8

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

12 || FREDA SUSSMAN,

Case No. 08CV392 H BLM

13 Plaintiff,

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF EX
PARTE MOTION FOR ORDER
SHORTENING TIME TO HAVE MOTION
TO REMAND HEARD**

16 ARMELIA SANI, M.D., SHILEY EYE
17 CENTER, UCSD MEDICAL CENTER,
18 REGENTS OF THE UNIVERSITY OF
19 CALIFORNIA, HEALTH NET OF
CALIFORNIA, INC., HEALTH NET
SENIORITY PLUS, LINDA BEACH,
HAIDEE GUTIERREZ.

Date: 4/14/08

Time: 10:30 a.m.

Dept. 13

Magistrate: Barbara Major

22 | Defendants

23

L.

**THE COURT HAS THE RIGHT TO SHORTEN TIME IN WHICH TO HAVE A
MOTION HEARD**

26 For good cause, the Court may shorten the time in which a motion may be heard. FRCP

27

CR

1 6(d). Good cause for such an order is when a party may suffer irreparable injury if her
 2 opposition may not be timely heard. FRCP 65; U.S. v. Fitch (9th Cir. 1973) 472 F. 2d. 548,9.
 3 The court should grant the motion if the moving party has acted diligently. See, e.g., Mission
 4 Power Engineering Co. v. Continental Ins. Co. (CD Cal 1995) 883 F. Supp. 488,92.

5 The Plaintiff's action was filed in State court on 11/17/07. Defendant HEALTH NET OF
 6 CALIFORNIA, INC.'s Notice of Removal was filed on March 3, 2008. The Plaintiff's Motion to
 7 Remand was timely filed on March 13, 2008. Two days prior to Plaintiff's Motion to Remand
 8 being filed, Defendant HEALTH NET OF CALIFORNIA, INC.'s Motion to Dismiss the
 9 Plaintiff's Complaint was received by the Plaintiff. Defendant HEALTH NET OF
 10 CALIFORNIA, INC.'s Motion to Dismiss has a hearing date of April 7, 2008. The Plaintiff's
 11 position is that the case should be remanded to State Court, not dismissed. Insofar as the
 12 Plaintiff's Motion to Remand must be determined before Defendant HEALTH NET OF
 13 CALIFORNIA, INC.'s Motion to Dismiss, the Plaintiff requests this Court to schedule the
 14 Plaintiff's Motion to Remand for April 7, 2008 to be heard concurrently with Defendant
 15 HEALTH NET OF CALIFORNIA, INC.'s Motion to Dismiss.

16 In the alternative, the plaintiff requests that the court move the hearing date of April 7, 2008
 17 on the Defendant HEALTH NET OF CALIFORNIA, INC.'s Motion to Dismiss to April 14,
 18 2008 at 10:30 a.m. to be heard concurrently with the plaintiff's motion to remand. The Court
 19 has the right to extend the time in which a motion is heard. FRCP 6(b).
 20

21
 22 Dated: 3/13/08
 23
 24

Respectfully Submitted:

HAYWORTH AND SUSSMAN



25
 26 Nancy Sussman,
 27 Attorney for Plaintiff